

Export Control Information for Hosts to Foreign Visitors

If you host a visit, have discussions, communicate by mail, telephone, electronic mail, or facsimile; through shipment; via hand-carried materials; as a result of presentations; over the web; and/or by any other means with foreign nationals, please remember that you are responsible for ensuring that all appropriate technical data, software, and/or commodities to which your visitors will have access is properly protected in accordance with the export control rules and regulations of the United States. Pay special attention to equipment and/or technologies that are considered dual-use and that could be used in conjunction with nuclear proliferation or chemical and/or biological weapons, as well as to items that could negatively affect national security.

An export can occur through a variety of means, including **oral communications**, **written documentation**, **U.S. computer software**, and **visual inspection** of U.S. facilities and equipment by foreign nationals. Of particular concern is the visual inspection by foreign nationals of areas not generally accessible to U.S. citizens (the public). To ensure that technical data, software, and/or commodities are properly protected in accordance with export control rules and regulations, you must review these areas before the visit by the foreign national. Please complete the following actions before allowing the foreign national access to an Argonne facility or technology:

1. *Review the technologies to be discussed with the foreign nationals for compliance with export requirements and verify that the technologies do not appear on the DOE Sensitive Subjects or ANL Sensitive Technologies list (See Export Controls Web page). Technical data consist of specific information required for the design, development, production, manufacture, assembly, operation, repair, testing, maintenance, or modification of the technologies in question. This information includes technical data in the form of blueprints, plans, diagrams, models, formulae, tables, engineering designs and specifications, manuals, and instructions written or recorded on other media or on such devices as disk, tape, and read-only memories.*

In general, only technology that is not classified or sensitive, or that is already publicly available (in other words, Argonne or DOE has no vested interest in licensing the technology or applying for patent rights), or marketing information (general information that would be provided to a potential investor or potential partner) can be disclosed to a foreign national. While much of the work in which Argonne and its employees engage in furtherance of its basic research and technology development mission is excepted from U.S. export control regulations, knowledge of this compliance with export controls is important to the Laboratory, as well as to every U.S. citizen, for economic and national security reasons. If the purpose of the visit is part of a previous agreement or contract that has been approved for export, only *approved* technical data, software, and/or commodities can be disclosed, and only to the foreign nationals who have been approved. Often, companies will be based in one country, but will have employees from a variety of countries. For example, if you are contracted with a Kazak facility, and you are required to host a representative from that facility who is actually a foreign national from Russia and not a permanent U.S. resident, the release of particular information or technology may be considered an export to Russia. Likewise, if you are contracted with a firm incorporated in the United States, but you are required to host a representative from that U.S. firm who is actually a foreign national from France and not a U.S. permanent resident, the release of particular information or technology may be considered an export to France.

If the purpose of the visit is to sign an agreement that includes the transfer of technical data, software, and/or commodities to a foreign national, please ensure that the export has been approved. A nondisclosure agreement signed by the foreign national(s) does not allow an export of technology, and Department of Commerce, Department of Energy, Department of State, Department of Treasury, and Nuclear Regulatory Commission regulations still govern the visit.

2. *Review all software to which the foreign national will have access for compliance with export regulations. Many software packages are export controlled in some fashion (even some commercial packages). Almost all commercial software packages, however, can be used by foreign nationals under a license exemption, except if they are from a sensitive or embargoed country.*
3. *Assess all commodities that are going to be viewed or used by the foreign national to determine if allowing the foreign national access to the area would constitute an export.*

In general, limited viewing of a commodity will not promote a transfer of technology; however, in cases where details are evident, such as vessel size, operating temperatures and pressures, or other specific configuration details, an export can occur. Detailed photographs, technical manuals, and specifications on commodities should not be given to foreign nationals unless a review has been completed, even for commercial equipment.

Verify that the technology, information, and/or commodities fall into one or more of the following categories prior to transfer:

- Fundamental Research *and* Information Resulting from Fundamental Research
- Published Information and Software (Publicly Available)
- Education Information
- Patent Applications

Expanded definitions of these categories are contained in the Argonne Guide to Exporting.

- Presentations and discussions must be limited to only those topics that are not related to controlled items or technologies unless they are in the public domain. Further elaboration, or additional details, may be considered an export of technologies and need an export license prior to release.

Contact the Export Control Coordinator at Argonne-East on extension 2-2701 or the Export Control Liaison at Argonne-West on extension 3-7495 for assistance.